

REMARKS

Claims 1-11, 13, 15-20, 31-46 and 48-58 are pending in this application. By this Amendment, claims 1, 4, 8, 13, 35, 53 and 54 are amended. Support for the amendments is found, for example, in claim 14. No new matter is added. Claim 14 is canceled without prejudice to, or disclaimer of, the subject matter recited in that claim. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search or consideration as the amendments amplify issues previously discussed throughout prosecution; and (c) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

The Office Action rejects claims 1, 4-8, 13, 14, 31-39, 41-44, 48, 49, 52-55 and 58 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,898,443 to Yoshino et al. (hereinafter "Yoshino"). This rejection is respectfully traversed.

Claim 1 recites, among other features, forming a first film of a plurality of films each of which includes a first material and a second material in a first area of the base, the forming of the first film including a first ejection of the first material from a first nozzle and a second ejection of the second material from a second nozzle, the first ejection of the first material and the second ejection of the second material being carried out during a first period.

Applicant's specification states, at paragraph [0129], "since materials can be discharged from the plurality of nozzles at the same time and the plurality of materials can easily be mixed, in this case, it is easy to form a functional film having a specific function on

the base." Each of the recited first and second periods therefore represents an interval where a first material and a second material at least may interact during an ejection.

The Office Action asserts that Yoshino discloses the above-quoted feature. As discussed in Applicant's previous Amendment, Yoshino, at col. 16, lines 12-67 and col. 17, lines 1-9 and shown in Figs. 16 and 17, discloses printing inks of separate colors from separate cartridges sequentially, not together in any manner in any operation that could be reasonably considered to occur in any discrete time frame representing any first period, as differentiated from any second period. Therefore, each print head containing each material of a different color applies its color completely to a substrate before a head of another color applies an ink of another color. Therefore, Yoshino fails to disclose the above-quoted feature.

The Office Action, on page 3, generally alleges only that "depositing various films in various distinct areas of the base at various times" is taught in Figs. 1 and 4-6 of Yoshino. However, none of these includes multiple intervals in each of which a film is formed of separate materials from separate nozzles during a discrete forming period.

Claim 1 also recites, among other features, the base being provided in a first chamber during the first period.

The Office Action asserts either that the feature 500 in Fig. 12, or the room in which the printer is located corresponds to a chamber. Yoshino never discloses that Element 500 refers to a chamber. Element 500 appears to be the printer packaging, not a chamber. Yoshino does not disclose a room. One of ordinary skill in the art would not consider the room or the printer packaging a chamber, as recited in the pending claims, for carrying out the method of claim 1.

Because Yoshino does not disclose the above-quoted features, Yoshino cannot reasonably be considered to teach, or to have suggested, all of the features positively recited in claim 1. Further, claims 4-8, 13, 31-39, 41-44, 48, 49, 52-55 and 58 are also neither

taught, nor would they have been suggested, by Yoshino for at least the respective dependence of these claims on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejection of claims 1, 4-8, 13, 31-39, 41-44, 48, 49, 52-55 and 58 under 35 U.S.C. §102(b) as being anticipated by the applied reference are respectfully requested.

The Office Action rejects claims 1, 8, 13-20, 35-37, 40-44, 48-51 and 53-57 under 35 U.S.C. §102(b) as being anticipated by EP 1 093 167 to Yamazaki et al. (hereinafter "Yamazaki"). This rejection is respectfully traversed.

Yamazaki teaches, in paragraphs [0092]-[0127], and shown in Figs. 7A-E and 8A-E, that layers of different material types are deposited on a substrate in a sequential manner. Here, an electroluminescence (EL) device is fabricated by sequentially applying different materials which together comprise the EL device. However, the constituent materials are applied such that a lower layer must be completely fabricated prior to the application of a material comprising a different second material.

For reasons similar to those argued above, Yamazaki fails to disclose the features of the pending claims because it fails to disclose periods, or an interval where a first material and a second material at least may interact during an ejection. The Examiner, on page 7, generally alleges only that distinct areas at varying times is taught in the Figures of Yamazaki.

For at least the foregoing reasons, Yamazaki cannot reasonably be considered to teach, or to have suggested, the combination of all of the features positively recited in independent claim 1. Further, claims 8, 13-20, 35-37, 40-44, 48-51 and 53-57 are also neither taught nor would they have been suggested, by Yamazaki for at least the respective dependence of these claims on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1, 8, 13-20, 35-37, 40-44, 48-51 and 53-57 under 35 U.S.C. §102(b) as being anticipated by the applied reference are respectfully requested.

The Office Action rejects claims 4-7, 31-34, 38, 39, 45, 46 and 52 under 35 U.S.C. §103(a) as unpatentable over Yamazaki in view of Yoshino. This rejection is respectfully traversed.

For the reasons indicated above, Yamazaki and Yoshino in combination, would not have suggested all of the features of the pending claims. No permissible combination of these references can reasonably be considered to have suggested the combination of all of the features positively recited in claims 4-7, 31-34, 38, 39, 45, 46 and 52, for at least the respective dependence of these claims directly render them allowable

Accordingly, reconsideration and withdrawal of the rejection of claims 4-7, 31-34, 38, 39, 45, 46 and 52 under 35 U.S.C. 103(a) as being unpatentable over the applied references are respectfully requested.

The Office Action rejects claims 1-6, 8-11, 13-20, 31-51 and 58 under 35 U.S.C. §103(a) as being unpatentable over JP-A-2000-323276 to Seki et al. (hereinafter "Seki"), in view of Yamazaki, JP-A-06-306181 to Hiraga et al. (hereinafter "Hiraga"), Yoshino, and what is asserted to be the admitted state of the art (hereinafter "Assertion"). This rejection is respectfully traversed.

For the reasons indicated above, Yamazaki and Yoshino in combination would not have suggested all of the features of independent claim 1. None of Seki, Hiraga or the assertion overcomes the above-identified shortfalls in the application of Yamazaki and/or Yoshino to the subject matter of claim 1.

The Office Action summarily concludes that it would have been obvious to combine Seki in view of Yamazaki, Hiraga, Yoshino and the Assertion to suggest the features of the

pending claims. The overall analysis supporting the 35 U.S.C. §103(a) rejections of at least the subject matter recited in claims 1-6, 8-11, 13-20, 31-51 and 58, strings together a list of limitedly related references, broadly construes one of more features discussed in each of those references as allegedly corresponding to some feature disclosed in the pending claims, and then fills in holes in the obviousness analysis by asserting that these varying combinations of diverse references are somehow combinable in some manner as suggested by the Office Action. The combinability analysis alone fails for at least the following reasons.

First, MPEP §2142 instructs that the proper standard by which to determine obviousness requires (1) that the Examiner step backward in time into the shoes of the hypothetical "person of ordinary skill in the art," (2) that "[i]n view of all the factual information, the Examiner must then make a determination whether the claimed invention 'as a whole' would have been obvious at the time to the person," and (3) that any knowledge gained from Applicant's disclosure must be put aside at reaching this determination in order to avoid the tendency to resort to the impermissible application of hindsight reasoning based on the roadmap provided by Applicant's disclosure. Clearly, there is nothing in any of the individual references to suggest that one of ordinary skill in the art may have, in any way, predictably combined them in the manner suggested by the Office Action, with any reasonable expectation of success and such has not been adequately shown by any objective evidence of record.

Second, to any extent that the references each teach some feature that allegedly corresponds to a feature recited in the pending claims, the mere presence of such a feature is not a reasonable conclusion upon which to base the assertion that one of ordinary skill in the art would have predictably combined any of the teachings of the references as suggested by the Office Action with any reasonable expectation of success in achieving the objectives

which are intended to be achieved by, and in the manner of, the subject matter of the pending claims.

For example, one of ordinary skill in the art would not have predictably combined the teachings of Hiraga to the other references with any reasonable expectation of success.

Hiraga teaches physical vapor deposition onto a heated substrate. U.S. Patent No. 6,843,937 at col. 1 in the last paragraph of the Description of the Background Art, mentions, "In order to form a thin film from such a low molecular dye compound, a vapor deposition method has been so far employed. However, it is difficult to obtain a homogeneous defect-free thin film by the vapor deposition method. Further, the vapor deposition is not an efficient method, since it takes a long time to form several organic layers by the method." This description in U.S. Patent No. 6,843,937 demonstrates that one of ordinary skill in the art would not have tried to combine the vapor deposition of Hiraga with the ink jet technologies of the other references to create nearly defect-free thin films with any predictability or expectation of success..

Third, even post-*KSR*, the analysis supporting an obviousness rejection must be explicit. The Supreme Court in *KSR* approved the conclusion set forth in the decision of the Federal Circuit in *In re Kahn* (citations omitted) that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." This standard is not met here with the mere conclusory statements that one of ordinary skill may have modified Seki to include any feature allegedly taught by Yamazaki, Hiraga, Yoshino and the Assertion in the manner suggested. In other words, there are no rational underpinnings to the articulated reasons of the statements above.

Fourth, MPEP §2143 is explicit in its setting forth exemplary rationales to guide the obviousness analysis in supporting a rejection under 35 U.S.C. §103(a). The mandate of this

MPEP section is that "[t]he key to supporting any rejection under 35 U.S.C. §103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." Not only is this standard ignored, but there is not even an attempt by the Office Action to frame the asserted obviousness rejection over this combination of applied references under any exemplary rationale set forth in the Patent Office's guidance to its Examiners.

For at least this reason, none of the additionally applied references, Seki, Hiraga or the assertion even when taken in conjunction with Yoshino and/or Yamazaki, to the extent that the references are even combinable in the manner suggested, a conclusion that Applicants do not concede, this combination of applied references would not have suggested the combination of all of the features positively recited in independent claim 1. Further, because the combination of various references would have suggested the combination of all of the features positively recited in claims 6, 8-11, 13, 15-20, 31-51 and 58, for at least the respective dependence of these claims on an allowable base claim as well as the separate allowable subject matter that these claims recite.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-6, 8-11, 13, 15-20, 31-51 and 58 under 35 U.S.C. 103(a) as being unpatentable over the applied references are respectfully requested.

The Office Action rejects claim 7 under 35 U.S.C. §103(a) as being unpatentable over Seki in view of Yamazaki, Hiraga, Yoshino, the Assertion, and U.S. Patent No. 6,296,354 to Hashimoto. This rejection is respectfully traversed.

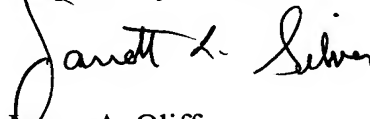
Because Hashimoto is not applied in any manner that would overcome the above-identified shortfall in the application of the other references to the subject matter of independent claim 1, this combination of applied references cannot reasonably be considered to have suggested the combination of all of the features positively recited in claim 7.

Accordingly, reconsideration and withdrawal of the rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over the applied references are respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-11, 13, 15-20, 31-46 and 48-58 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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